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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,350	11/21/2003	Vance M. Smith	4313-031012	3308
28289	7590	08/29/2006	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219				ELOSHWAY, NIKI MARINA
ART UNIT		PAPER NUMBER		
		3727		

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/719,350	SMITH, VANCE M.
	<b>Examiner</b>	<b>Art Unit</b>
	Niki M. Eloshway	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 August 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-19, 46 and 48 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-6, 10-16, 46 and 48 is/are rejected.

7)  Claim(s) 7-9 and 17-19 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_ .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Introduction***

1. Applicant's arguments, filed August 15, 2006, with respect to the rejections of the claims over Kane (U.S. 3,907,349) in view of Koziczkowski et al. (U.S. 5,411,162), have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is set forth below.
2. The finality of the previous action is withdrawn.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-4, 6, 10-14, 16, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziczkowski et al. (U.S. 5,411,162) in view of DE 195 09 349. Koziczkowski et al. teaches that it is known to provide a coating on a split ring (see coating 92). Koziczkowski et al. does not teach the use of a polymeric coating. DE 195 09 349 teaches that it is known to provide a clamp band with a polymeric coating on the inner surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Koziczkowski et al. with the coating being polymeric instead of metal, as taught by DE 195 09 349, in order to provide a corrosion resistant coating with greater flexibility which can conform easily to irregularities in the inner surface.

Regarding claims 6 and 16, Koziczkowski et al. also does not disclose the thickness of the polymeric coating. It would have been obvious to one having ordinary skill in the art at the time the

invention was made to provide the container assembly of Koziczkowski et al. with the polymeric coating having a thickness between about 15-30 mils, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 11, Koziczkowski et al. does not teach a gasket between the cover and container. Kane teaches that it is known to provide a gasket between a cover and container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Koziczkowski et al. with a gasket between the cover and container, as taught by Kane, in order to better seal the assembly.

5. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koziczkowski et al. (U.S. 5,411,162) in view of DE 195 09 349, as applied to claims 1 and 10 above, and further in view of Dodds (U.S. 5,621,189). The modified container of Koziczkowski et al. discloses the claimed invention except for the polymeric coating being PVC. Dodds teaches that it is known to use PVC as a coating (see col. 6 lines 30-50, where it is disclosed that either polypropylene or PVC may be used). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Koziczkowski et al. with the polypropylene coating being replaced by a PVC coated, as taught by Dodds, in order to give the coating the resistance, resiliency and durability characteristic of PVC.

***Allowable Subject Matter***

6. Claims 7-9 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. THIS ACTION IS MADE NON-FINAL.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Niki M. Eloshway/nme  
Patent Examiner  
August 24, 2006

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER